

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
WASTE MANAGEMENT DIVISION

In the matter of administrative proceedings
against Diamond Chrome Plating, Inc., a corporation organized
under the laws of the State of Connecticut
and doing business at 604 South Michigan Avenue,
City of Howell, County of Livingston,
State of Michigan

WMD Order No. 111-11-97

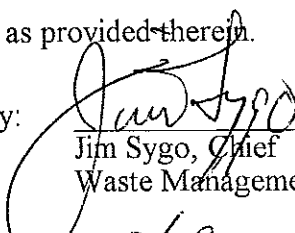
EPA I.D. No. MID 005 344 973

NOTICE OF TERMINATION

This Notice is issued pursuant to a request for termination submitted on March 6, 1998 by Mr. John C. Beatty, III, General Manager, on behalf of Diamond Chrome Plating, Inc. (Diamond Chrome) pursuant to Section 9.1 of WMD Order No. 111-11-97. The request contained supporting information as required by Section 9.1 of WMD Order No. 111-11-97. Review of this request and the supporting information indicates that Diamond Chrome has achieved compliance with the terms and conditions of the Order.

Therefore, effective the date of issuance noted below, WMD Order No. 111-11-97 is terminated. Termination of this Order does not release Diamond Chrome of liability for any violations of law not specifically resolved by the Order. Diamond Chrome is hereby put on notice that the Department of Environmental Quality may pursue civil and/or criminal prosecution, including the assessment of monetary fines, for any such violation of Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.11101 - 324.11152, or other applicable law, as provided therein.

By:


Jim Sygo, Chief
Waste Management Division

Date: 3/19, 1998

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
WASTE MANAGEMENT DIVISION

In the matter of administrative proceedings
against Diamond Chrome Plating Inc., a corporation organized
under the laws of the State of Connecticut
and doing business at 604 South Michigan Avenue,
City of Howell, County of Livingston,
State of Michigan

WMD Fast Track Order No. 111-11-97

EPA I.D. No. MID 005 344 973

CONSENT ORDER

This proceeding results from allegations specified in Letters of Warning ("LOWs") issued on June 23, 1995 and September 26, 1996 by the staff of the Department of Environmental Quality ("DEQ"). Similar hazardous waste violations were also documented in follow-up visits on February 6, 1996 and March 4, 1997. The DEQ alleges that Diamond Chrome Plating, Inc. (the "Respondent"), a Connecticut corporation, doing business at 604 South Michigan Avenue, City of Howell, County of Livingston, Michigan, is in violation of Part 111, Hazardous Waste Management ("Part 111"), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.101, et seq. ("NREPA"), and the administrative rules promulgated under Part 111. The Respondent and the DEQ agree to resolve the alleged hazardous waste container violations set forth in the LOWs by entry of this Consent Order.

I. STIPULATIONS

The Respondent and the DEQ stipulate as follows:

- 1.1 Pursuant to its authority under Section 105 and Part 111 of the NREPA, the DEQ has promulgated administrative rules pertinent to the identification, generation, treatment, storage, disposal, and transportation of hazardous wastes in Michigan. These rules are set forth in the Michigan Administrative Code ("MAC"), R 299.9101 - R 299.11107.
- 1.2 On October 30, 1986, the State of Michigan was granted final authorization by the Administrator of the U.S. Environmental Protection Agency ("U.S. EPA"), pursuant to Section 3006(b), the Resource Conservation and Recovery Act ("RCRA") 42 U.S.C. Section 6926(b), to administer a hazardous waste

program in Michigan in lieu of the federal program, 40 CFR Part 271, 51 Federal Register 36804 (October 16, 1986), as updated by 54 Federal Register 7420 (February 21, 1989), by 54 Federal Register 48608 (November 24, 1989), as updated by 55 Federal Register 18112 (May 1, 1990), by 56 Federal Register 18517 (April 23, 1991), as updated by 57 Federal Register 3724 (January 31, 1992), by 58 Federal Register 51244 (October 1, 1993), by 60 Federal Register 3095 (January 13, 1995), and by 61 Federal Register 4742 (February 8, 1996). Section 3008 of the RCRA, 42 U.S.C. Section 6928, provides that the U.S. EPA may enforce state regulations in those states authorized to administer a hazardous waste program.

- 1.3 The Respondent is a person as defined by Section 301(g) of the NREPA and R 299.9106(i). The Respondent owns and operates a facility at 604 South Michigan Avenue, Howell, Michigan, that generates hazardous waste (the "Facility"). The Respondent is a Connecticut corporation.
- 1.4 On August 16, 1980, the Respondent filed a notification of hazardous waste activity for the Facility with the U.S. EPA pursuant to Section 3010 of the RCRA for its hazardous waste generation activities. The Respondent's U.S. EPA I.D. No. is MID 005 344 973.
- 1.5 The Director of the DEQ is authorized by Section 11151(1) of Part 111 to issue orders to comply. Accordingly, the Director has authority to issue and enter into this Consent Order to comply by consent with the Respondent.
- 1.6 The Respondent stipulates to the issuance and entry of this Consent Order and that entry of the Consent Order is proper and acceptable. This Consent Order shall be considered a final order of the DEQ and shall become effective on the date it is signed by the Chief of the Waste Management Division ("WMD"), delegatee of the Director, pursuant to Section 301(b) of the NREPA.
- 1.7 The Respondent agrees to fully and strictly comply with all provisions of Part 111 of the NREPA, the administrative rules promulgated pursuant to Part 111, and all other applicable state and federal statutes.
- 1.8 The Respondent and the DEQ agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by the Respondent that the law has been violated.

II. DEQ APPROVAL OF SUBMITTALS

- 2.1 The Respondent shall assure that the Container Management Plan and the Secondary Containment Plan ("Workplans") required to be submitted pursuant to Paragraphs 3.1(e) and 3.2(a) of this Consent Order will be complete and technically adequate, such that the Workplans meet any applicable statutory and regulatory requirements and the specific terms of this Consent Order when initially submitted. For any Workplan, report, or other document that is required to be submitted by the Respondent to the DEQ by this Consent Order, the following process and terms of approval shall apply. The DEQ may approve, disapprove, or approve with specified modifications, any required Workplan. Upon DEQ approval, or approval with modifications, of a Workplan, such Workplan shall become a part of this Consent Order and shall be enforceable in accordance with the provisions of this Consent Order. In the event that the DEQ approves a Workplan with modifications, the DEQ shall state each specific modification and the basis for each modification in writing. In the event that the DEQ disapproves a Workplan, the DEQ shall notify the Respondent of the specific reasons for the disapproval in writing. Within ten (10) business days of receipt of the DEQ's disapproval letter, the Respondent shall amend and submit a revised Workplan that addresses the reasons for the DEQ's disapproval unless the notice of disapproval specifies a longer period. Failure by the Respondent to submit an approvable Workplan within the ten (10) business day schedule shall subject the Respondent to the enforcement provisions of this Consent Order, including but not limited to, the imposition of additional civil penalties. Any delays caused by the Respondent's failure to submit an approvable Workplan shall in no way affect the Respondent's responsibility to comply with any deadlines specified in this Consent Order.

III. COMPLIANCE PROGRAM

The Respondent shall achieve and maintain compliance with the requirements specified below in accordance with the following schedule:

3.1 Container Management

- (a) Within fifteen (15) calendar days after the effective date of this Consent Order, the Respondent shall submit to the DEQ documentation sufficient to demonstrate that all hazardous waste containers at the Facility have been properly labeled in compliance with the requirements of R 299.9306(1)(b) and (c).

- (b) Within fifteen (15) calendar days after the effective date of this Consent Order, the Respondent shall submit to the DEQ documentation sufficient to demonstrate that all hazardous waste containers at the Facility are shipped off-site within the ninety (90) day accumulation time limit in compliance with the requirements of R 299.9306(1).
- (c) Within fifteen (15) calendar days after the effective date of this Consent Order, the Respondent shall submit to the DEQ documentation sufficient to demonstrate that all hazardous waste containers at the Facility are being stored closed in accordance with 40 CFR 265.173(a), as required by R 299.9306(1)(a)(i).
- (d) Within fifteen (15) calendar days after the effective date of this Consent Order, the Respondent shall submit to the DEQ documentation sufficient to demonstrate that all hazardous waste containers at the Facility are being inspected on a weekly basis in accordance with 40 CFR 265.174, as required by R 299.9306(1)(a)(i).
- (e) Within ninety (90) calendar days after the effective date of this Consent Order, the Respondent shall submit for review and approval a Container Management Plan that will address the container management requirements set forth in items a, b, c, and d, above, to assure future compliance by the Respondent with the rule citations addressed therein. The Container Management Plan must include Standard Operating Procedures (SOP) for day-to-day container management and to address how employees with hazardous waste management duties will be trained on the SOP to assure the Respondent's compliance. The Container Management Plan shall be subject to DEQ approval; however, the Container Management Plan SOP shall be subject to comment only by the DEQ.
- (f) The DEQ may approve, disapprove, or approve with specified modifications, the Container Management Plan in accordance with Paragraph 2.1, above.
- (g) Upon receipt of written DEQ approval of the Container Management Plan, the Respondent shall implement the Container Management Plan.

3.2 Secondary Containment

- (a) Within ninety (90) calendar days after the effective date of this Consent Order, the Respondent shall submit for review and approval a Secondary Containment Plan that provides for the following:
 - (1) A Workplan containing a report that evaluates the adequacy of secondary containment at the Facility, and recommends improvements to secondary containment structures. The Workplan must also include an implementation schedule not to exceed four (4) months for constructing the needed improvements. In addition, the Workplan must address appropriate secondary containment measures for the spent solvent hazardous waste in accordance with 40 CFR 264.175, as required by R 299.9306(1)(a)(i). Furthermore, the Workplan must provide for separate and distinct containment for the spent solvent wastes, as opposed to the current accumulation practice that would allow any significant spills of spent solvents to enter the Facility's waste water treatment system or storm sewers. The Workplan must also include the repair of the truck well ledge in close proximity to the hazardous waste roll-off box to provide better secondary containment measures for hazardous waste containers stored along its edge, in accordance with 40 CFR 264.175, as required by R 299.9306(1)(a)(i). The Respondent must include information demonstrating that the materials proposed for the repair will provide an effective barrier to the types of wastes the Respondent accumulates prior to treatment.
 - (2) The SOPs for the inspection, repair, and maintenance of secondary containment structures. The SOP must also provide for the periodic review and update of the SOP based upon changes in regulations or secondary containment facilities, and improvements to hazardous waste management practices. The Secondary Containment Plan SOP shall be subject to comment only by the DEQ.
- (b) The DEQ may approve, disapprove, or approve with specified modifications, the Secondary Containment Plan in accordance with Paragraph 2.1, above.
- (c) Upon receipt of written DEQ approval of the Secondary Containment Plan, the Respondent shall implement the Secondary Containment Plan.

IV. REPORTING

- 4.1 The Respondent shall submit all items required in Section III to Ms. Elizabeth Browne, District Supervisor, WMD, DEQ, 10650 Bennett Drive, Morrice, Michigan 48857. The cover letter with each submittal shall identify the specific paragraph and requirement of this Consent Order that the submittal is intended to satisfy.

V. RETENTION OF RECORDS

- 5.1 Upon request by an authorized representative of the DEQ, the Respondent shall make available to the DEQ all records, plans, logs and other documents required to be maintained under this Consent Order or pursuant to Part 111, or its administrative rules. All such documents shall be retained at the Facility for at least a period of three (3) years from the date of generation of the record unless a longer period of record retention is required by Part 111, the RCRA, or their rules.

VI. RIGHT OF ENTRY

- 6.1 The Respondent shall allow any authorized representative or contractor of the DEQ, upon presentation of proper credentials, to enter upon the premises of the Facility at all reasonable times for the purpose of monitoring compliance with the provisions of this Consent Order. This paragraph in no way limits the authority of the DEQ to conduct tests and inspections pursuant to the NREPA, and its rules, or any other applicable statutory provision.

VII. FINES AND PENALTIES

- 7.1 Within thirty (30) calendar days after entry of this Consent Order, the Respondent shall pay the sum of \$15,000.00 to the General Fund of the State of Michigan, by check made payable to the State of Michigan and delivered to the DEQ, Cashier's Office, 300 S. Washington Square, Suite 457, P.O. Box 30657, Lansing, Michigan 48909-8157, in settlement of the DEQ's claim for a civil fine arising from the violations alleged in the above-referenced LOWs. To ensure proper credit, all payments made pursuant to this Consent Order must include the Payment Identification Number WMD 1014.
- 7.2 To insure timely payment of the civil fine set forth in paragraph 7.1, above, the Respondent shall pay an interest penalty to the State of Michigan each time it fails to make a complete or timely payment. This interest penalty shall be based on the rate set forth at MCL 600.6013(6), using the full increment of amount

due as principal, and calculated from the due date for the payment until the delinquent payment is finally made in full. Payment of an interest penalty by the Respondent shall be made to the "State of Michigan" in accordance with paragraph 7.1, above.

- 7.3 The Respondent agrees not to contest the legality of the civil fine or any interest paid pursuant to paragraphs 7.1 and 7.2, above.

VIII. GENERAL PROVISIONS

- 8.1 With respect to any violations not specifically addressed and resolved by this Consent Order, the DEQ reserves the right to pursue any other remedies to which it is entitled for any failure on the part of the Respondent to comply with the requirements of the NREPA, and its rules.
- 8.2 Notwithstanding any other provision of this Consent Order, an enforcement action may be brought by the DEQ pursuant to Part 111 or other statutory authority where the generation, storage, transportation, treatment, or disposal of hazardous waste at the Respondent's Facility may present an imminent and substantial hazard to the health of persons or to the natural resources or is endangering or causing damage to the public health or the environment.
- 8.3 The DEQ and the Respondent consent to enforcement of this Consent Order in the same manner and by the same procedures for all final orders entered pursuant to Part 111 of the NREPA, MCL 324.11101 et seq.
- 8.4 This Consent Order in no way affects the Respondent's responsibility to comply with any other applicable state, federal, or local laws or regulations, including, without limitation, any corrective action or similar requirements applicable to the Respondent's Facility pursuant to Part 111, the RCRA, and their rules.
- 8.5 Nothing in this Consent Order is or shall be considered to affect any liability the Respondent may have for natural resource damages caused by the Respondent's ownership and/or operation of the Facility. The State of Michigan does not waive any rights to bring an appropriate action to recover such damages to the natural resources.
- 8.6 The provisions of this Consent Order shall apply to and be binding upon the parties to this action; their officers, agents, servants, employees, successors and assigns; and on those persons in active concert or participation with them who receive actual notice of the Consent Order prior to its termination. The

Respondent shall give notice of this Consent Order to any prospective successor in interest prior to transfer of ownership and shall notify the DEQ of such proposed sale or transfer.

IX. TERMINATION

9.1 This Consent Order shall remain in full force and effect until expressly terminated by a written Notice of Termination issued by the Chief of the WMD. The Respondent may request that the Chief issue a written Notice of Termination at any time after achieving compliance with this Consent Order. Such a request shall consist of a written certification that the Respondent has fully complied with all of the requirements of this Consent Order and payment of any fines and penalties required in this Consent Order. Specifically, this certification shall include:

- (a) the date of compliance with each provision of the compliance program in Section III and the date any fines or penalties were paid;
- (b) a statement that all required information has been reported to the District Supervisor; and
- (c) confirmation that all records required to be maintained pursuant to this Consent Order are being maintained at the Facility.


Additional relevant information may also be requested by the Chief of the WMD.

SIGNATORIES

The undersigned CERTIFY they are fully authorized by the party they represent to enter into this Consent Order to comply by consent and to EXECUTE and LEGALLY BIND that party to it.

Diamond Chrome Plating, Inc.

By:

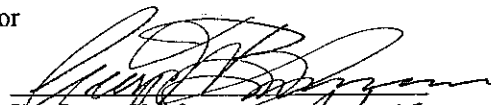

Mr. John Beatty III
General Manager

Date: October 28, 1997

Department of Environmental Quality

Russell J. Harding
Director

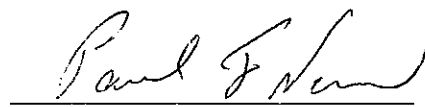
By:


Jim Sygo, Chief
Waste Management Division

Date: Nov. 5, 1997

APPROVED AS TO FORM:

Frank J. Kelley
Attorney General


Natural Resources Division
3rd Floor, Knapps Centre
Lansing, Michigan 48909

Date: 11/5/97